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On Broadband and Consumer Access to the Internet
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Chairman McCain and distinguished members of this Committee, I appreciate the opportunity to appear here today representing Cox Communications and the cable industry. When it comes to Internet access, here's what cable is providing to its customers—fast, cheap, high quality, competitive Internet access with national <u>and</u> local content. And we're the ones who are connecting schools and libraries to the Internet…for free.

Mr. Chairman, I have just one point to make this morning: many industries—telephone, cable, wireless, electric utility and satellite—are investing billions of dollars in private risk capital to deploy broadband infrastructure. Injecting the government into the way competitive high bandwidth Internet access services are provided would have an entirely predictable result—to slow their investment and deployment.

More bluntly, the old style cost-of-service government regulation that surely would emerge from the calls by AOL for government intervention would only increase the cost of high bandwidth Internet access to customers. There is no bottleneck or essential facility for access to the Internet—and regulation has no place in this vibrant, rapidly developing sector of the American economy.

Mr. Chairman, Cox alone has invested more than $4 billion to expand the bandwidth and activate the return path of its cable platforms. This year the cable industry is pouring more than $10 billion into similar network upgrades. These investments, which will take several years to complete, are not made under a guaranteed rate-of-return. This is venture capital at work. The mere suggestion from government that such risky investments could be subjected to old fashioned cost-of-service regulation would have a chilling effect on going-forward investments and would slow down the roll-out of these new advanced Internet services.

Moreover, a so called unbundling obligation, or a government regulation by any other name, requiring access to cable networks for some 6000 third-party ISPs would <u>raise</u> the cost of high bandwidth Internet access for consumers in two ways. First, it would require, at great cost, the deployment and management of untried and untested network equipment. Second, it would create a "dumb pipe" that would be more expensive to operate because cable generated data advertising and transaction revenue would no longer help pay the cost of infrastructure.

Make no mistake--this is not an argument about open access, it is an argument between competing business interests. On the one hand, ISPs with content like AOL say they want the same business arrangement with cable as @Home or RoadRunner, but they show up without the necessary facilities and are unwilling to share advertising and transaction revenue in any meaningful way. On the other hand ISPs without content add no value for the consumer.

The deployment of advanced services is an extraordinarily complicated task which includes network management, billing and collection, and customer service. Provision of these services requires very close coordination between MSOs and their Internet access and national content providers, @Home and RoadRunner. For example, Cox/@Home is a single, integrated service in which the costs of transport and content are reduced as a result of the integration. Introduction of third parties into this process can only make an already complicated task virtually unmanageable and more expensive to end users. And it would require the separate pricing of these integrated services through cost-of-service regulation that would curl your hair.

If there were only one pathway to the Internet, regulation might be warranted. But as AOL has so often pointed out, narrowband access to the Internet will be the access of choice for a high percentage of consumers for some time to come. And numerous high bandwidth Internet access providers are rapidly emerging. There is considerable evidence to support this conclusion. Today there are about half a million cable modem users and perhaps two hundred thousand Digital Subscriber Line Telephone users. But the phone companies have announced plans for some 25 million DSL capable lines by the end of this year. Nextlink and others have invested billions to develop local multipoint distribution system (LMDS) high bandwidth access serving 95 percent of the households in the top 30 markets. Hughes has just announced a $1.4 billion plan for a North American Satellite high bandwidth network that will reach both major and rural markets. MCI is spending more than half a billion dollars acquiring multichannel multipoint distribution system (MMDS) spectrum for high speed Internet access. New third generation digital wireless telephone technology will begin offering high bandwidth access within the next 3 to 5 years. And, electric utility companies are also entering the high bandwidth facilities sweepstakes. Surely these technologies and others yet to be identified should be encouraged not threatened by the heavy hand of government regulation.

Mr. Chairman, in conclusion it would be a pity if, instead of a nation of facilities-based communications providers, we became a nation primarily of resellers and re-packagers. Global competitiveness will not be furthered by policymaking that creates heavy incentives for resale over facilities-based business strategies. It is my view that a highly regulatory, cost-based, rate-of-return unbundling of competitive cable Internet access facilities has no public policy or legal predicate. High bandwidth Internet access is now and will continue to be highly competitive. In this context, cable controls no essential facility. Government intrusion in the form of unbundling this facility is the regulatory camel's nose under the Internet tent. Everyone who hopes to keep the Internet free from regulatory burdens should resist this. Old-fashioned regulation is the last thing needed for the Internet to continue to flourish.